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PRE-APPEAL BRIEF REQUEST FOR REVIEW		Docket Number (Optional) 1387a	
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		First Named Inventor <u>Fred S. Cook</u>	
		Art Unit <u>2618</u>	Examiner <u>Simon Nguyen</u>
<p>Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.</p> <p>This request is being filed with a notice of appeal.</p> <p>The review is requested for the reason(s) stated on the attached sheet(s).</p> <p>Note: No more than five (5) pages may be provided.</p>			
<p>I am the</p> <p><input type="checkbox"/> applicant/inventor. <u>/Stephen S. Roche/</u> Signature</p> <p><input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)</p> <p><input checked="" type="checkbox"/> attorney or agent of record. Registration number <u>52,176</u> <u>(720) 562-2280</u> Telephone number</p> <p><input type="checkbox"/> attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 <u>05/17/2007</u> Date</p>			
<p>NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.</p>			

*Total of 1 forms are submitted.

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Practitioner's Docket No. 1387a

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Fred S. Cook Confirmation No.: 9818
Application No.: 10/657,469 Group No.: 2618
Filed: 09/08/2003 Examiner: Simon Nguyen
For: VALIDATING A TRANSACTION WITH USER VOICE AUTHENTICATION
USING WIRELESS COMMUNICATIONS

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PRE-APPEAL BRIEF REQUEST FOR REVIEW

In response to the Advisory Action dated April 13, 2007 (hereinafter “the Advisory Action”), applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request. A Notice of Appeal under 37 C.F.R. § 41.31(a)(1) is being filed herewith. The review is requested for the reasons provided in the following remarks.

REMARKS

Claims 1-3 are pending in the application. Claims 1-3 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,016,476 (hereinafter “Maes”). (Page 2 of the Final Office Action of January 17, 2007, hereinafter “the Final Office Action.”) Applicant respectfully disagrees and believes such allegations represent clear error in establishing a *prima facie* rejection under 35 U.S.C. § 103.

Independent claim 1 is provided below, with emphasis added:

1. A wireless telephone to handle a transaction to purchase a product, the wireless telephone comprising:
 - a memory configured to store a plurality of account codes and account balances for the account codes;
 - a display configured to display a first user prompt for a voice-authenticated transaction, to display a second user prompt to select one of the account codes, and to *display a third user prompt for a user speech sample to voice-authenticate the transaction*;
 - a microphone configured to receive the user speech sample to voice-authenticate the transaction;
 - keys configured to receive a first user selection of the voice-authenticated transaction and a second user selection of a selected one of the account codes;
 - a wireless interface configured to transfer for the transaction the user speech sample and the selected one of the account codes, and to receive for the transaction a transaction code, a product identification, and a purchase price;
 - control circuitry configured to *direct the display to display the first user prompt, and responsive to the first user selection from the keys, to direct the display to display the second user prompt, and responsive to the second user selection from the keys, to direct the display to display the third user prompt, to direct the wireless interface to transfer the speech sample and the selected one of the account codes, to direct the memory to store for the transaction the transaction code, the product identification, the purchase price, a date for the transaction, and an account balance after the transaction for the selected one of the account codes; and*
 - wherein the wireless telephone is configured to communicate over a public wireless communication network.

Generally, Maes discloses a process whereby a user obtains a temporary digital certificate, using biometric data, from a central server *prior to initiating a consumer transaction* (Maes, col. 5, lines 54-62, col. 7, lines 27-56, and col. 11, lines 9-41). The digital certificate in Maes is *periodically downloaded* in client/server mode with an authentication date and an expiration date and *stored in a PDA device memory* (Maes, col. 7, lines 36-51). Finally, Maes

discloses an event, *subsequent to the digital certificate download*, where the user initiates a consumer transaction and is biometrically verified by an unexpired digital certificate in a local mode of the PDA device (Maes, col. 10, lines 16-18, 29-32 and col. 11, lines 9-18).

As a result, the process of Maes differs from the subject matter of claim 1 in several ways. For example, Maes does not teach or suggest *displaying a third user prompt for a user speech sample to voice-authenticate the transaction*. The Advisory Action indicates that Maes discloses this provision at column 7, line 20 – column 10, line 28. Applicant respectfully disagrees with this indication. In that passage, Maes discloses the process for downloading the digital certificate to the PDA device. However, this selection does *not* involve a *consumer transaction* (purchase of a product). In contrast, claim 1 recites prompting a user for a speech sample to voice-authenticate a transaction *after* a voice-authenticated transaction is initiated. Further, the PDA device in Maes cannot perform in the local operating mode until *after* the previously obtained digital certificate is verified.

Additionally, since Maes does not indicate that the digital certificate is obtained after a consumer transaction has been initiated, the control circuitry in Maes cannot be configured to direct the display to display the first user prompt, and *responsive to the first user selection* from the keys, to direct the display to display the second user prompt, and *responsive to the second user selection* from the keys, to direct the display to display the third user prompt for a user speech sample to voice-authenticate the transaction, as provided for in claim 1. The Final Office Action fails to state specifically where Maes discloses this limitation or that Maes discloses this limitation at all. Thus, applicant respectfully contends that the *prima facie* elements of the 35 U.S.C. § 103 rejection have not been met for claim 1. Claim 1 is therefore allowable in view of Maes.

Independent claims 2 and 3 contain limitations similar to those of claim 1 and are therefore allowable over the art of record for the same reasons as claim 1.

CONCLUSION

Based upon the above remarks, applicant submits that claims 1-3 are allowable.

Additional reasons in support of patentability exist, but such reasons are omitted in the interest of clarity and brevity. Applicant thus respectfully requests allowance of claims 1-3.

The applicant hereby authorizes the Office to charge Deposit Account No. 21-0765 the appropriate fee under 37 C.F.R. § 41.20(b)(1) for the Notice of Appeal filed herewith. Should the Office determine additional fees are necessary, the Office is hereby authorized to charge Deposit Account No. 21-0765.

Respectfully submitted,

/Stephen S. Roche/

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